

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN JUDE HOFFENBERG,

Petitioner,

00 Civ. 1686

-against-

OPINION

UNITED STATES OF AMERICA,

Respondent.

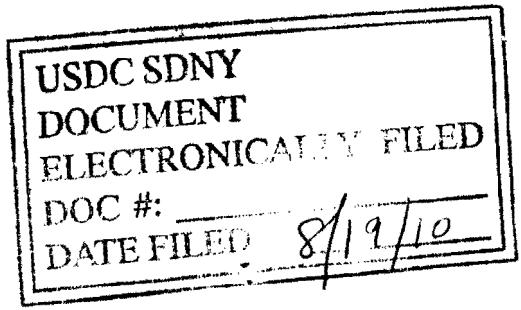
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**Sweet, D.J.**

Petitioner Steven Jude Hoffenberg ("Hoffenberg") has applied for leave to appeal in forma pauperis this Court's denial of his motions to reopen judgment and for "bail release." For the foregoing reasons, the application is denied.

**Prior Proceedings**

The facts and prior proceedings in this case are set forth in this Court's April 26, 2010 Opinion denying Hoffenberg's motion to reopen judgment and for "bail release." See Hoffenberg v. United States, No. 00 Civ. 1686, 2010 WL 1685558, at \*1-\*3 (S.D.N.Y. Apr. 26, 2010).



On May 13, 2010, this Court denied Hoffenberg's petition for a certificate of appealability. On June 25, 2010, Hoffenberg filed an appeal of the April 26, 2010 Opinion with the Second Circuit.

**On July 28, 2010,** Hoffenberg submitted the instant application to proceed in forma pauperis.

**Standard for *in forma pauperis* Determination**

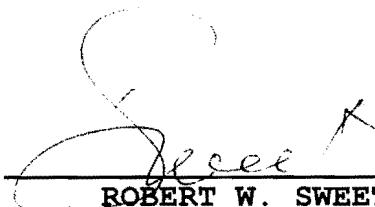
"The decision of whether to grant a request to proceed in forma pauperis is left to the District Court's discretion under 28 U.S.C. § 1915. The Court's discretion is limited in that: 'An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.'" Fridman v. City of New York, 195 F. Supp. 2d 534, 536 (S.D.N.Y. 2002) (quoting 28 U.S.C. § 1915(a)(3)) (internal citations omitted); see also Fed. R. App. P. 24(a)(3)(A) ("A party . . . may proceed on appeal in forma pauperis . . . unless the district court . . . certifies that the appeal is not taken in good faith . . . .") . The standard for "good faith" in pursuing an appeal is an objective one. See Coppedge v. United States, 369 U.S. 438, 445 (1962) ("We consider a defendant's good faith . . . demonstrated when he seeks appellate review of an issue not

frivolous."); see also Linden v. Harper & Row Publishers, 490 F. Supp. 297, 300 (S.D.N.Y. 1980) (applying objective "good faith" standard to civil case).

Hoffenberg's application does not state what issues he intends to raise on appeal. Regardless, this Court has had several opportunities to consider Hoffenberg's claims and has repeatedly found that they lack merit. Therefore, pursuant to 28 U.S.C. § 1915(1)(3), Hoffenberg's appeal cannot be taken in good faith and his application to proceed in forma pauperis is denied.

It is so ordered.

New York, NY  
August 17, 2010



ROBERT W. SWEET  
U.S.D.J.